



File Code: 2820

Date: August 2, 2012

Dear Interested Party:

Federal coal lease applications to modify two existing coal leases were made by Ark Land Company to the USDI Bureau of Land Management (BLM)-Colorado State Office. The request is to add approximately 1721 acres of National Forest System (NFS) surface lands managed by the Grand Mesa, Uncompahgre, and Gunnison National Forests to two existing leases for the purpose of preventing bypass of federal compliant and super-compliant coal reserves. The lease modifications are located approximately 7 miles southeast of Somerset, Gunnison County, CO in Sections 10, 11, 14, 15, 22 and 23, T. 14S, R. 90W, 6th PM and are adjacent to existing federal coal leases on NFS and private lands.

The BLM manages the federal mineral estate for coal leases. Where the land surface is managed by the Forest Service, BLM must obtain consent from the Forest Service before leasing can occur. An Environmental Impact Statement (EIS) has been prepared analyzing the effects of the Forest Service consenting to the BLM leasing these parcels and BLM issuing the lease modifications. At the leasing stage, the federal agencies evaluate the effects of subsidence (lowering of the land surface incident to coal removal) and identify where surface resources may require specific protection from subsidence or foreseeable surface uses.

The quantity of mineable coal in both lease modifications would likely extend the existing operations approximately 19 months beyond those currently approved within federal leases. An additional 16-17 months of mining in coal on adjacent private lands could also be realized by access gained through the lease modification areas. No increase in the rate of coal production is anticipated nor will any additional jobs be created at the West Elk Mine as a result of BLM issuing the lease modifications.

I have decided to select alternative 3, Consent to Lease with Stipulations, as described in the EIS. Selection of this alternative provides the BLM-Colorado State Office my consent to lease the NFS lands included in Federal Coal Lease Modifications COC-1362 & COC-67232. My consent decision includes the application of terms and conditions, identified as stipulations, to protect surface (non-mineral) resources on NFS lands. My decision does not authorize actual mining or any surface disturbing activities; however, it is based upon the analysis in the EIS, which evaluated potential future use of the land surface with effects similar to existing coal activities in the area and with coal lease stipulations applied.

My decision will be implemented through issuance of the Record of Decision followed by BLM's action of making a subsequent and independent decision on whether or not to lease or lease with additional stipulations. If the BLM decides to modify the existing leases, mining activities may be permitted by Colorado Division of Reclamation, Mining and Safety and/or Office of Surface Mining Reclamation and Enforcement. Mountain Coal Company and Ark Land, as lessees, would be responsible for securing/maintaining any local, State or Federal permits and approvals as applicable and required by law for future mining operations of the lease modifications at the West Elk Mine.



This decision is subject to administrative review pursuant to Federal Regulations at 36 CFR 215.11. Appeals (including attachments) must be in writing and filed (regular mail, fax, e-mail, hand-delivery, express delivery, or messenger service) with the Appeal Deciding Officer (§215.8) within 45 days following the date of publication of the Notice of Decision in the *Federal Register*. The publication date of the *Federal Register* notice is the exclusive means for calculating the time to file an appeal (§215.15 (a)). Those wishing to appeal should not rely upon dates or timeframe information provided by any other source. Pursuant to 36 CFR 215.13 (b), only those individuals or organizations who submitted comments during the official comment periods (April-May 2010 and/or April 2012-July 2012) may file an appeal.

The addresses for filing appeals are:

USDA, Forest Service, Region 2  
Attn: Appeal Deciding Officer 740 Simms Street Golden, CO 80410  
Fax: 303-275-5134 to the attention of Appeals;  
Email: [appeals-rocky-mountain-regional-office@fs.fed.us](mailto:appeals-rocky-mountain-regional-office@fs.fed.us)

It is an appellant's responsibility to provide sufficient activity-specific evidence and rationale, focusing on the decision, to show why the Responsible Official's decision should be reversed. At a minimum, an appeal must include the following (§215.14): (1) Appellant's name and address (§215.2), with a telephone number, if available; (2) Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the appeal); (3) When multiple names are listed on an appeal, identification of the lead appellant (§215.2) and verification of the identity of the lead appellant upon request; (4) The name of the project or activity for which the decision was made (Federal Coal Lease Modifications COC-1362 & COC-67232), the name and title of the Responsible Official, and the date of the decision; (5) The regulation under which the appeal is being filed, when there is an option to appeal under either this part or part 251, subpart C (§215.11(d)); (6) Any specific change(s) in the decision that the appellant seeks and rationale for those changes; (7) Any portion(s) of the decision with which the appellant disagrees, and explanation for the disagreement; (8) Why the appellant believes the Responsible Official's decision failed to consider the substantive comments; and (9) How the appellant believes the decision specifically violates law, regulation, or policy. Notices of Appeal that do not meet the requirements of 36 CFR§215.14 will be dismissed.

Pursuant to 36 CFR 215.9(a), if no appeal is filed, implementation of this decision may occur on, but not before, the fifth business day from the close of the appeal period.

Copies of the EIS and full text of my decision may be downloaded from the internet at the following link: <http://www.fs.fed.us/nepa/fs-usda-pop.php/?project=32459>.

For further information or to obtain copies of the Final EIS or Record of Decision, please contact Niccole Mortenson, Engineering and Minerals NEPA Project Specialist, at 406-329-3163 or [nmortenson@fs.fed.us](mailto:nmortenson@fs.fed.us), or Ryan Taylor, Geologist, at 970-527-4131 or [rtaylor@fs.fed.us](mailto:rtaylor@fs.fed.us).

Sincerely,

/s/ Sherry Hazelhurst  
SHERRY HAZELHURST  
Acting Forest Supervisor